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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

D/AOA47

XERZ 2 00422

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Signature _____

Typed or printed name Kathleen A. Nimrichter

Application Number

10/007,358

Filed

November 5, 2001

First Named Inventor

Jesus S. Ortega et al.

Art Unit

2173

Examiner

Ting Zhou

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

 applicant/inventor. assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96) attorney or agent of record. 34,261
Registration number _____ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

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Telephone number

7/22/05

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

*Total of 1 forms are submitted.

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF : Jesus S. Ortega, et al.
FOR : INSTRUCTION GENERATING
SERIAL NO. : SYSTEM AND PROCESS VIA
FILED : SYMBOLIC REPRESENTATIONS
GROUP ART UNIT : 10/007,358
CONFIRMATION NO. : November 5, 2001
EXAMINER : 2173
LAST OFFICE ACTION : 3572
ATTORNEY DOCKET NO. : Zhou, Ting
: February 22, 2005
: D/A0A47
: XERZ 2 00422

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Remarks

Applicants respectfully submit the cited Baker reference (U.S. Application No. 2004/0163544 A1) which was used as the primary reference in rejecting claims 1-9 of the present application, and the only reference cited against claims 1-4 and 6, has been misunderstood by the Patent Office.

In brief, Applicants respectfully submit the cited Baker reference to be entirely inappropriate.

The present application discloses and claims a system and method for generating pictographic instructions understood by a user following the instructions,

regardless of the user's language. This feature is recited in each of the independent claims 1, 6, and 7. On the other hand, the cited Baker reference discloses concepts directed to a user inputting instructions to a PDA type of device for the PDA to act upon (Abstract). Baker does not teach generating an instruction understandable by the person following the instruction, irrespective of the written language understood by the person—as recited in the claims of the present application. Rather, Baker teaches that it is a user who works to generate an input instruction to be understood and performed by the PDA or computing system.

Further, there is no teaching or suggestion in Baker that a user can understand the symbols regardless of the user's language. For example, on page 15, paragraph 150, Baker discusses the calculator symbol 22a of Figure 1, among other symbols 22b-22f, but each symbol is associated with an English subtitle, thereby indicating a possibility that the user may not understand the symbol. Even the "stop" symbol discussed on page 4, paragraph 40, and shown in Figure 2, contains the English word "stop" to clarify its meaning. There is no suggestion that the stop sign is universally understood by users that only understand non-English languages. But again, as pointed out above, it is not the user performing the indicated instructions as taught by the present application, but instead, as taught by the reference, the computing device.

Applicants requested a telephone conference on two occasions to discuss the inappropriateness of the cited art, and what Applicants believe to be a lack of response to Applicant's arguments. Both requests were denied in view of the application being in an After Final status. Applicants, therefore, filed a second response re-submitting the arguments which they believed were not responded to, and asked for a reconsideration of the application because the general statements made in the Advisory Action mailed June 10, 2005 did not meet the requirement that

a specific response be provided. However, another Advisory Action rejecting all remaining claims was mailed on July 21, 2005, but not yet received as of this date.

Thus, in a first response to the Office Action mailed February 22, 2005, Applicants requested a showing of a disclosure in the cited references that, e.g., the symbols taught by Baker, and referred to by the Examiner in paragraph 2 of the most recent Office Action, represent instructions to be followed by a person who understands the instructions irrespective of the written language understood by the person. No response to this request was provided in the Advisory Action mailed June 10, 2005. Applicants respectfully submit there has been no showing of the essential elements needed for a prima facie rejection of the independent claims 1, 6, and 7.

Applicants respectfully further submit, with reference to claims 1 and 6, that there has been no showing in any of the cited references a teaching corresponding to the limitation included in each of claims 1 and 6 that selected ones of the action glyphs, material glyphs and instrumentation glyphs are arranged in relationship to each other in accordance with a predetermined structure to form a specific instruction understandable by the person following the instruction irrespective of the written language understood by the person.

Further, with reference now to dependent claim 3, it has been argued in the Office Actions that Baker teaches the user creating a command sequence using the symbols "new" representing an action symbol, "all" representing a material symbol, and "file cabinet" representing an instrument symbol. Applicants respectfully submit that "new" does not represent an action, and that the referenced Figures 8c and 8d do not clearly show a glyph representing either "new" or "all." Further, a dictionary definition of "material" was provided in the Office Action mailed February 22, 2005,



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and the word "all" does not conform to any of the meanings provided by the Merriam-Webster definition.

For at least the above-stated reasons, Applicants respectfully request a pre-appeal review for the reasons set forth above.

Respectfully submitted,

FAY, SHARPE, FAGAN,
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| Date July 22, 2005 | Printed Name Kathleen A. Nimrichter |
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